IN THE UNITED STATES DISTRICT COURT
FOR THE Southern DISTRICT OF TEXAS
Houston DIVISION

Form To Be Used By A Prisoner in Filing a Complaint
Under the Civil Rights Act, 42 U.S.C. § 1983

United States District Court
Southern District of Texas
FILED
DEC 02 2016
David J. Bradley, Clerk of Court

Anthony Ortiz #753367
Plaintiff's name and ID Number

Pack I Unit - 2400 Wallace Pack Rd. - Navasota, Texas - 77868
Place of Confinement

CASE NO: ______________________
(Clerk will assign the number)

v.

Lorrie Davis - Walls Unit - P.O. Box 99, Huntsville, Texas - 77342
Defendant's name and address

Robert D. Herrera - Pack I Unit - 2400 Wallace Pack Rd. - Navasota, Texas - 77868
Defendant's name and address

Donald J. Bilnoski - Pack I Unit - 2400 Wallace Pack Rd. - Navasota, Texas - 77868
Defendant's name and address
(DO NOT USE "ET AL.")

INSTRUCTIONS - READ CAREFULLY

NOTICE:

Your complaint is subject to dismissal unless it conforms to these instructions and this form.

1. To start an action you must file an original and one copy of your complaint with the court. You should keep a copy of the complaint for your own records.

2. Your complaint must be legibly handwritten in ink, or typewritten. You, the plaintiff, must sign and declare under penalty of perjury that the facts are correct. If you need additional space, **DO NOT USE THE REVERSE SIDE OR BACK SIDE OF ANY PAGE**. ATTACH AN ADDITIONAL BLANK PAGE AND WRITE ON IT.

3. You must file a separate complaint for each claim you have unless the various claims are all related to the same incident or issue or are all against the same defendant, Rule 18, Federal Rules of Civil Procedure. Make a short and plain statement of your claim, Rule 8, Federal Rules of Civil Procedure.

4. When these forms are completed, mail the original and one copy to the Clerk of the United States Court for the appropriate District of Texas in the Division where one or more named defendants are located, or where the incident giving rise to your claim for relief occurred. The list labeled as "VENUE LIST" is posted in your unit law library. It is a list of Texas prison units indicating the appropriate District Court, the Division and an address of the Divisional Clerks.

FILING FEE AND IN FORMA PAUPERIS

1. In order for your complaint to be filed, it must be accompanied by the filing fee of **$350.00**.

2. If you do not have the necessary funds to pay the filing fee in full at this time, you may request permission to proceed *in forma pauperis*. In this event you must complete the application to proceed *in forma pauperis* (IFP), setting forth the information to establish your inability to prepay the fees and costs or give security therefore. You must also include a six (6) month history of your Inmate Trust Account. You can acquire the application to proceed IFP and appropriate Inmate Account Certificate from the law library at your prison unit.

3. 28 U.S.C. 1915, as amended by the Prison Litigation Reform Act of 1995 (PLRA), provides, "...if a prisoner brings a civil action or files and appeal *in forma pauperis*, the prisoner shall be required to pay the full amount of a filing fee." Thus, the Court is required to assess and, when funds exist, collect, the entire filing fee or an initial partial filing fee and monthly installments until the entire amount of the filing fee has been paid by the prisoner. If you submit the application to proceed *in forma pauperis*, the Court will apply 28 U.S.C. 1915 and, if appropriate, assess and collect the entire filing fee or an initial partial filing fee, then monthly installments from your Inmate Account, until the entire **$350** filing fee has been paid.

4. If you intend to seek *in forma pauperis* status, then do not send your complaint without an Application to Proceed IFP, and the Certificate of Inmate Trust Account. Complete all the essential paperwork before submitting it to the Court.

CHANGE OF ADDRESS

It is your responsibility to inform the Court of any change of address and its effective date. Such notice should be marked **"NOTICE TO THE COURT OF CHANGE OF ADDRESS"** and shall not include any motions(s) for any other relief. Failure to file a NOTICE TO THE COURT OF CHANGE OF ADDRESS may result in the dismissal of your complaint pursuant to Rule 41(b), Federal Rules of Civil Procedures.

I. PREVIOUS LAWSUITS:

A. Have you filed any other lawsuits in the state or federal court relating to imprisonment? ✓ YES ______ NO

B. If your answer to "A" is yes, describe each lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, giving the same information.)

1. Approximate date of filing lawsuit: I can't remember the date.

2. Parties to previous lawsuit:
   Plaintiff(s): Anthony Ortiz # 753367
   Defendant(s): Smallwood

3. Court (If federal, name the district; if state, name the county) Southern, Houston, Tx.

4. Docket Number: I don't remember, it was along time ago

5. Name of judge to whom case was assigned: I don't remember

6. Disposition: (Was the case dismissed, appealed, still pending?)
   dismissed

7. Approximate date of disposition: I don't remember the date

II. PLACE OF PRESENT CONFINEMENT: Pack I Unit

III. EXHAUSTION OF GRIEVANCE PROCEDURES:

Have you exhausted both steps of the grievance procedure in this institution? ✓ YES ___ NO

Attach a copy of the Step 2 grievance with the response supplied by the prison system.

IV. PARTIES TO THE SUIT:

A. Name of address of plaintiff: Anthony Ortiz #753367 Pack I Unit - 2400 Wallace Pack Rd. - Navasota, Texas - 77868

B. Full name of each defendant, his official position, his place of employment, and his full mailing address.

Defendant #1: Lorrie Davis - Director of TDCJ. Walls Unit - P.O. Box 99, Huntsville, Texas - 77342

Briefly describe the act(s) or omission(s) of this defendant, which you claimed harmed you.

SHe is legally responsible for the overall operation of TDCJ.

Defendant #2: Robert D. Herrera - Warden of Pack I Unit, 2400 Wallace Pack Rd. Navasota, Texas - 77868

Briefly describe the act(s) or omission(s) of this defendant, which you claimed harmed you.

He cannot control his subordinates under his control

Defendant #3: Donald J. Bilnoski - Assistant Warden of Pack I Unit - 2400 Wallace Pack Rd. Navasota, Texas - 77868

Briefly describe the act(s) or omission(s) of this defendant, which you claimed harmed you.

He cannot control his subordinates under his control

Defendant #4: Clarence Houston - Lieutenant of Officers on the Pack I Unit. 2400 Wallace Pack Rd. Navasota, Texas - 77868

Briefly describe the act(s) or omission(s) of this defendant, which you claimed harmed you.

He violated a due process law on a case by not allowing me to call a witness.

Defendant #5: Sharon M. Boniaby - COV on the Pack I Unit - 2400 Wallace Pack Rd. Navasota, Texas - 77868

Briefly describe the act(s) or omission(s) of this defendant, which you claimed harmed you.

Falsified a State document and also used vulgar language towards me.

V. STATEMENT OF CLAIM:

State here in a short and plain statement the facts of your case, that is, what happened, where did it happen, when did it happen, and who was involved. Describe how each defendant is involved. You need not give any legal argument or cite any cases of statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach extra pages if necessary, but remember that the complaint must be stated briefly and concisely. IF YOU VIOLATE THIS RULE, THE COURT MAY STRIKE YOUR COMPLAINT.

Lorrie Davis is the Director of TDCJ. She is in charge of the overall operation of TDCJ. She cannot control her subordinates. Robert D Herrera is the Warden of the Pack I Unit and he can't control his subordinates. Donald J. Bilnoski is the Asst. Warden on the Pack I Unit and he cannot control his subordinates. All of the charges on all 3 supervisors happened on the Pack I Unit at 3:40 PM. on 8-10-16 and it was 108° without adequate ventilation in an Extremely hot environment in 7 Dorm. Clarence Houston ran case # 20160373907 at 8:00 AM. on 8-13-16 and found me guilty, but wouldn't let me call witnesses which violated the due process law. Sharon M. Boniaby at 3:40 P.M. on 8-10-16 falsified a State document and used vulgar language. Joseph N. NJORGE at 5:30 PM. on 8-10-16 refused to let me out the gate to get my insulin or to eat. All of these happened on the Pack I Unit. M. Blalock didn't even

VI. RELIEF: State briefly exactly what you want the court to do for you. Make no legal arguments. Cite not cases or statutes.

VII. GENERAL BACKGROUND INFORMATION:

A. State, in complete form, all names you have ever used or been known by including any and all aliases:

Anthony Ortiz, Anthony Duncan

B. List all TDCJ-ID identification numbers you have ever been assigned and all other state or federal prison or FBI numbers ever assigned to you, if know to you.

211978, 399154, 753367

VIII. SANCTIONS:

A. Have you been sanctioned by any court as a result of any lawsuit you have filed? ____ YES _✓_ NO

B. If your answer is "yes", give the following information for every lawsuit in which sanctions were imposed. (If more than one, use another piece of paper and answer the same questions.)

1. Court that imposed sanctions (If federal, give district and division): ____________
2. Case Number: ____________
3. Approximate date sanctions were imposed: ____________
4. Have the sanctions been lifted or otherwise satisfied? ______ YES _______ NO

C. Has any court ever warned or notified you that sanctions could be imposed? ____ YES _√_ NO

D. If your answer is "yes", give the following information for every lawsuit in which warning was imposed. (If more than one, use another piece of paper and answer the same questions.)

1. Court that imposed warning (if federal, give the district and division): ____________________
2. Case number: ____________________
3. Approximate date warning were imposed: ____________________

Executed on: 11-29-16
(Date)

Anthony Ortiz
(Printed Name)

Anthony Ortiz
(Signature of Plaintiff)

PLAINTIFF'S DECLARATIONS

1. I declare under penalty of perjury all facts presented in this complaint and attachment thereto are true and correct.

2. I understand if I am released or transferred, it is my responsibility to keep the Court informed of my current mailing address and failure to do so may result in the dismissal of this lawsuit.

3. I understand that I must exhaust all available administrative remedies prior to filing this lawsuit.

4. I understand I am prohibited from bringing an *in forma pauperis* lawsuit if I have brought three or more civil actions in a Court of the United States while incarcerated or detained in any facility, which lawsuits are dismissed on the ground they were frivolous, malicious, or failed to state a claim upon which relief may be granted, unless I am under imminent danger or serious physical injury.

5. I understand even if I am allowed to proceed without prepayment of costs, I am responsible for the entire **$350** filing fee and costs assessed by the Court, which shall be deducted in accordance with the law from the inmate account by my custodian until the filing fee is paid.

Signed this 29 day of November, 20 16.
(Day) (Month) (Year)

Anthony Ortiz
(Printed Name)

Anthony Ortiz
(Signature of Plaintiff)

WARNING: The Plaintiff is hereby advised any false or deliberately misleading information provided in response to the following questions will result in the imposition of sanctions. The sanctions the Court may impose include, but are not limbed to monetary sanctions and/or the dismissal of this action with prejudice.

Clarence Houston - Pack 1 Unit - 2400 Wallace Pack Rd. Navasota, Texas - 77868
Defendant's name and address

Sharon M. Boniaby - Pack 1 Unit - 2400 Wallace Pack Rd. Navasota, Texas 77868
Defendant's name and address

Joseph N. NJORGE - Pack 1 Unit - 2400 Wallace Pack Rd. Navasota, Texas 77868
Defendant's name and address

M. Blalock, Walls Unit - P.O. Box 99 Huntsville, Texas - 77342
Defendant's name and address

J. Lopez, Walls Unit, P.O. Box 99, Huntsville, Texas - 77342
Defendant's name and address

Defendant #6: Joseph N. NJORGE Corr Off. III on the Pack 1 Unit, 2400 Wallace Pack Rd. Navasota, Texas - 77868

Briefly describe the act(s) or omission(s) of this defendant, which you claim harmed you.

He refused to let me get my insulin shot or eat.

Defendant #7: M. Blalock, Grievance Investigator, Walls Unit, P.O. Box 99 Huntsville, Tx. 77342

Briefly describe the act(s) or omission(s) of this defendant which you claim harmed you.

He or she didn't investigate grievance # 2016198216

Defendant #8: J. Lopez - Grievance Investigator, Walls Unit, P.O. Box 99, Huntsville, Tx. 77342

Briefly describe the acts or omission(s) of this defendant which you claim harmed you

He or She didn't investigate grievance # 2016194129 review or investigate grievance #2016198216, he said no due proccss was violated. J. Lopez didn't review or investigate grievance #2016194129. Both grievances are on 8-10-16 at 3:40 PM. on the Pack I Unit where Officer Bomaby and NJORGE refused to let me get my insulin or eat. All 8 Defendants are involved in the Extreme Heat and inadequate ventillation on Dorm 7 on the Pack Unit at 3:40 PM. on 8-10-16.

In The United States District Court
For The Southern District of Texas
Houston Division

Plaintiff
Anthony Ortiz #753367
Pack I Unit - 2400 Wallace Pack Rd.
Navasota, Texas - 77868

V Case No. ____________

Defendants

~~William Stevenson~~, Walls Unit, P.O. Box 99, Huntsville, Tx, - 77342
Lorrie Davis

Robert D. Herrera, Pack I Unit, 2400 Wallace Pack Rd. Navasota, Texas - 77868

Donald J. Bilnoski - Pack I Unit, 2400 Wallace Pack Rd. Navasota, Texas - 77868

Clarence Houston - Pack I Unit, 2400 Wallace Pack Rd. Navasota, Texas - 77868

Sharon M. Boniaby - Pack I Unit, 2400 Wallace Pack Rd. Navasota, Texas - 77868

Joseph N. NJORGE - Pack I Unit, 2400 Wallace Pack Rd. Navasota, Texas - 77868

M. Blalock - Walls Unit, P.O. Box 99, Huntsville, Texas - 77342

J. Lopez-Walls Unit, P.O. Box 99, Huntsville, Texas-77342

I. Jurisdiction & Venue (B)

1. This is a civil action authorized by U.S.C. Section 1983 to redress the depriviation, under color of state law, of rights secured by the Constitution of the United States. The court has jurisdiction under 28 U.S.C. Section 1331 and 1343(a)(3). Plaintiff seeks declaratory relief pursuant to 28 U.S.C. Section 2201 and 2202. Plaintiff's claims for injuntive relief are authorized by 28 U.S.C. Section 2283 & 2284 and rule 65 of the Federal Rules of Civil Procedure.
2. The United States District Court, Southern District of Texas, P.O. Box 61010, Houston, Texas-77208, is an appropriate venue under 28 U.S.C. Section 1391(b)(2) because it is where the events giving rise to this claim occurred.

II Plaintiff

3. Plaintiff, Anthony Ortiz #753367 is and was at all times mentioned herein a prisoner of the State of Texas in the custody of the Texas Department of Corrections. He is currently confined in Pack 1 Unit, 2400 Wallace Pack Rd. Navasota, Texas-77868

III Defendants

Lorrie Davis

4. [redacted] is the head of the Texas Department of Corrections in the State of Texas. She is legally responsible for the overall operation of the Department and each institution under it's jurisdiction, including the Unit I am incarcerated in. The Pack 1 Unit and for the welfare of all inmates in that prison. On grievance #2016198216 and #2016194129, I explained that it was 108° in 7 Dorm at 3:40 PM. on 8-10-16 and the Warden's didn't even mention it in there reply. On May 26, 2016 a storm hit our Unit and knocked the exhaust fans off the roof. Now that "inadequate ventilation and air flow violates the Eighth Amendment if it undermines the health of the inmates and the sanitation of the penitentiary." However, an "entirely inadequate" ventilation system did constitute an 8th Amendment violation. See Rhem v. Malcolm, 371 F. Supp. 594, 627 (S.D.N.Y. 1974) (holding excessive heat states an 8th Amendment claim). (2) Farmer v. Brennan, 511 U.S. 825 (1994). (3) Keenan v. Hall, 83 F.3d 1083, 1090 (9th Cir. 1996). (4) Id. (5) Dixon v. Godinez, 114 F.3d 640, 645 (7th Cir. 1997). (6) Hutching v. Corum, 501 F. Supp. 1276, 1293 (W.D. Mo. 1989); see also French v. Owens, 777 F.2d 1250, 1252 (7th Cir 1985). Since May 26, 2016 until this date 11-8-16 the exhaust fans on 7 dorm have been closed up tight where no ventilation can escape. It has been "excessively hot" since then and all summer long in this Texas heat. "Personal involvement," such as will support liability under § 1983, means direct participation, failure to remedy alleged wrong after learning of it, creation of policy or custom under which unconstitutional practices occurred, or gross negligence in managing subordinates. Black v. Coughlin,

C.A. 2 (NY) 1996, 76 F. 3d 72, on remand 15 F. Supp. 2d 311. Defendant may be personally involved in constitutional deprivation within meaning of 42 U.S.C.A. § 1983 in several ways: defendant may have directly participated in infraction; supervisory official, after learning of violation through report or appeal, may have failed to remedy the wrong; supervisory official may be liable because he created policy or custom under which unconstitutional practices occurred or allowed such policy or custom to continue; and supervisory official may be personally liable if he or she was grossly negligent in managing subordinates who caused unlawful conditions or event. William v. Smith, C.A. 2 (N.Y.) 1986, 781 F2d 319.

The Universal Declaration of Human Rights Article 5. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. Article 7. All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination. Article 30. Nothing in this Declaration may be interpreted as implying for any State, group or person any right in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

Amendment XIV

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction there of, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizen's of the United States; nor shall any State deprive any person of life liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Now here is some Exerpt from PD-22, General Rules of Conduct And Disciplinary Actions Guidelines for Employees that every Defendant violated (1) one or more of these General Rules. I will show the definition of the rules violated and which defendant violated which rule and all acted under the color of state law. No 5. Reckless Endangerment - 5b. Reckless Endangerment: Endangerment Less than Life Endangerment - Violation Level 2: Commiting or threatening to commit any act that endangers the safety of another individual to a lesser degree than endangerment of life (includes committing hazing or horseplay when the safety of another individual is endangered); an action that results in the security of the Agency being jeopardised. No 8. - Failure to Follow Proper Safety Procedures - Violation Level 4: An employee is required to observe and enforce current Agency policies and state and federal laws relating to safety in the workplace. No. 10 - Falsification of Records - Violation Level 2 (Does not include falsification relating to the State of Texas Application For Employment): An employee is required to maintain and submit truthful, accurate and complete records as required by the Agency. Falsification of records includes altering documents to reflect false information or the ommission of material information. By signing or submitting a document, an employee attests to the truthfulness, accuracy and completeness of the information presented in the document. No. 14 - Use of Profane/Abusive Language/Gestures or Slurs/Hostile Epithets - Violation Level 2 - The use of profanity or abusive language/gestures or any use of slurs and hostile epithets (e.g. name calling) is prohibited. Slurs and hostile epithets are verbal or written comments that humiliate or show hostility or animosity toward an individual or an individual's relative, friend or associate, because of an individual's race, color, religion, sex(gender), national origin, age (40 or above), disability or genetic information. A gesture, an isolated remark or a comment not directed to anyone in particular may be considered profane/abusive language/or gestures, slur or hostile epithet. An employee shall not respond in like terms to what the employee considers imprudent or insulting language or to any slur or hostile epithet. No. 21 - Discrimination/Harrassment against Persons of a Protected Class/Retaliation - Violation Level 1: Discrimination or harassment based on race, color, religion, sex(gender), including sexual harassment, national origin, age (40 or above), disability or genetic information is prohibited. In addition, an employee is prohibited from retaliating against or harassing an employee or other individual who: (1) opposed discrimination, sexual harassment or other prohibited conduct; (2) has filed a complaint alleging such discrimination or harrassment; or (3) has cooperated in an Agency or external investigation, hearing or court proceeding regarding such an allegation. Some examples of adverse employment actions that might be construed by the Agency to be retaliation are identified in PD-13. No 22 b. - Harassing or Retaliating against an Offender or Another Individual for Participating in an Official Investigation/Inquiry or for Pursuing Legal Activities (i.e., petitioning the courts) - Violation Level 1. No. 23 - Mistreatment of Offenders - Violation Level 2: Mistreatment usually takes the form of physical abuse, but it may also include, but not be limited to, such actions as threats or unauthorized/illegal denial of privileges or entitlements. No. 24 - Use of Excessive/Unnecessary Force - Existing policies and procedures shall govern the use of force to control a situation or to gain compliance with legal orders. Only the minimum amount of force applied in compliance with existing policies and necessary to achieve the desired results shall be employed. The use of force to intimidate, coerce, punish for the purpose of revenge is prohibited. No. 25 - Failure to Completely or Accurately Report a Use of Force or Commission of a Use of Force Administrative/Procedural Violation: An employee involved in or who is a material witness to a use of force incident is required to provide a complete factual account of the employee's actions and/or observations of the incident as outlined in existing policies and procedures. No 25 g. - Administrative/Procedural Violation Relating to Use of Force - Violation Level 3: (e.g. failure to videotape a use of force, make offender notification). All of the Defendant's disregarded the TDCJ Rules of Conduct and make up their own rules while each defendant acts under the color of State Law. There is five ways that exist in which Defendant William Stevenson may be personally involved in federal civil rights violation, and thus may be held liable under statute: (1) by participating directly in deprivation, (2) by failing to remedy wrong after learning of violation through report or appeal, (3) by creating policy or custom under which unconstitutional practices occurred, or (4) in managing subordinates who caused deprivation in grossly negligent way. Show v. Patterson, S.D.N.Y.

1997, 955 F. Supp. 182. Also gross negligence or delibert indifference to constitutional rights of prisoners by failing to act on information indicating that unconstitutional practices are taking place. Roucchio v. Coughlin, Ed. N.Y. 1996, 923 F. Supp. 360. Now William Stevenson because he acted under the color of State Law.

5. Robert D. Herrera is the Warden of the Pack I Unit. He is legally responsible for the operation of Pack I Unit and for the welfare of all inmates in that prison. Now I'm going to show how Warden Robert D. Herrera never investigated grievance # 2016198216. The Warden Herrera stated on the Step I, Minor disciplinary case #20160373907 has been reviewed. There was sufficient evidence to support guilty finding and the punishment was within agency guidelines. No due process or procedural errors were noted. No further action is warranted. First of all my due process law was violated by not being able to call my witness who saw and heard the whole confrontation. His name is James Chopel #2056533. Lieutenant Clarence Houston wouldn't call a witness and just said I was guilty and he gave me the maximum, 30 days commissary restriction and 30 day recreation. He violated my constitutional right to due process. Why even go to court if you are going to be guilty. Lieutenant Houston and Warden Herrera are acting under the color of state law. Next he didn't even mention the "inadequate ventilation and air flow that violates the eighth amendment". And an "entirely inadequate" ventilation system did constitute an 8th Amendment violation. See Rhem v. Malcolm, 371 F. Supp. 594, 627 (S.D.N.Y. 1974) holding excessive heat states an 8th Amendment

claim).(2) Farmer v. Brennan, 511 U.S. 825 (1994). (3) Keenan v. Hall, 83 F. 3d 1083, 1090 (9th Cir. 1996) (4) Id. (5) Dixon v Godinez, 114 F3d 640, 645 (7th Cir. 1997). (6) Hutching v. Corum, 501 F. Supp. 1276, 1293 (W.D. Mo. 1989). see also French v. Owens, 777 F. 2d 1250, 1252 (7th Cir 1985) "Personal involvement", such as will support liability under § 1983, means direct participation, failure to remedy alleged wrong after learning of it, creation of policy or custom under which unconstitutional practices occurred, or gross negligence in managing subordinates. Black v. Coughlin, C.A. 2 (NY) 1996, 76 F. 3d 72, on remand 15 F. Supp. 2d 311. Now a few other things he forgot to mention. No 5b.- Reck- Endangerment Less than Life Endangerment. No 8 - Failure to Follow Proper Safety Procedures. No 10 - Falsification of Records. No 14. - Use of Profanity No. 23 - Mistreatment of Offenders. Since I have a witness that heard Officer Boniaby say "I'm not going to fuck with any of you so give me your I.D.", meaning she is giving a false statement when she said I was ordered to be dressed in the dayroom. She never said anything else to me for the rest of the day. Also Warden Herrera didn't acknowledge that Officer Boniaby kept my I.D. overnight which resulted in an Officer NJORGE refusing to let me get my insulin shot or go eat. Those two Officers should have let me go to a cool down area. So Warden Robert D. Herrera has failure by supervisory official to remedy wrong after learning of violation through report or appeal; (2) creation by supervisory official of policy or custom under which unconstitutional practices occurred, or allowed of such policy or custom to continue; (3) gross negligence by supervisory official in managing subordinates who caused unlawful condition or event, and (5) gross negligence or delibert indifference to constitutional rights of prisoners by failing to act on information indicating that unconstitutional practices are taking place. Roucchio v Coughlin, E.D.N.Y. 1996, 923 F. Supp. 360. It would have been alot easier to dismiss the case because Lt. Houston violated my due process instead of this Civil case, but they want to keep unconstitutional practice to take place. Besides Warden Herrera is acting under the color of State Law.

6. Donald J. Bilnoski is the Assistant Warden of the Pack I Unit. He is legally responsible for the operation of the Pack I Unit and for the welfare of all inmates in that prison. I'm going to show how Asst. Warden Donald J. Bilnoski didn't investigate grievance #2016194129. Asst. Warden Bilnoski stated on this grievance that, your grievance has been reviewed and noted. No evidence was found to support your allegation of staff misconduct or that staff acted in an inappropriate manner. You did receive your identification card at a later time. No further action is warranted. Just by stating that I got my Identification card back at a later time proves that Officer Boniaby and Officer NJORGE wouldn't let me out to get my insulin or eat. That is No 23 - Mistreatment of Offenders - Neither Officer allowed me illegal denial of privileges or entitlements. I also explained it was 108° at 3:40 PM. on 8-10-16. The Asst. Warden Bilnoski didn't even mention it in his reply. On May 26, 2016 a storm hit our Unit and knocked the exhaust fans off the roof. Now that "inadequate ventilation and air flow violates the Eighth Amendment if it undermines the health of the inmates

sanitation of the penitentary." However, an "entirely inadequate" ventilation system did constitute an 8th Amendment violation. See Rhem v. Malcolm, 371 F. Supp. 594, 627 (S.D.N.Y. 1974) (holding excessive heat states an 8th Amendment claim). (2) Farmer v. Brennan, 511 U.S. 825 (1994). (3) Keenan v. Hall, 83 F. 3d 1083, 1090 (9th Cir. 1996). (4) Id. (5) Dixon v. Godinez, 114 F 3d 640, 645 (7th Cir. 1997). (6) Hutching v. Corum, 501 F. Supp. 1276, 1293 (W.D. Mo. 1989); see also French v. Owens, 777 F2d. 1250, 1252 (7th Cir. 1985). Since May 26, 2016 until this date 11-8-16 the exhaust fans on 7 Dorm have been closed up tight where no ventilation can escape. It has been "excessively hot" since then and all summer long in this Texas heat. "Personal involvement," such as will support liability under § 1983, means direct participation, failure to remedy alleged wrong after learning of it, creation of policy or custom under which unconstitutional practices occurred, or gross negligence in managing subordinates. Black v. Coughlin, C.A. 2 N.Y. 1996, 76 F. 3d 72, on remand 15 F. Supp. 2d 311. Defendant Donald J. Bilnoski may be personally involved in constitutional deprivation within meaning of 42 U.S.C.A. § 1983 in several ways: Defendant may have directly participated in infraction; supervisory official, after learning of violation through report or appeal, may have failed to remedy the wrong; supervisory official may be liable because he created policy or custom under which unconstitutional practices occurred or allowed such policy or custom to continue; and supervisory official may be personally liable if he or she was grossly negligent in managing subordinates who caused unlawful conditions or event. William v Smith, C.A. 2(N.Y.) 1986, 781 F 2d 319. The Universal Declaration of Human Rights - Article 5 - No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. Article 7 - All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination. Article 30. - Nothing in this Declaration may be interpreted as implying for any State, group or person any right in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein. So far Defendant William Stevenson, Robert D. Herrera, and Donald J. Bilnoski after learning of violations through report or appeal, may have failed to remedy the wrong. They are liable because they created policy or custom under which unconstitutional practices occurred or allowed such policy or custom to continue; and they were grossly negligent in managing subordinates who caused unlawful conditions and events. William v Smith, C.A. 2(N.Y.) 1986, 781 F 2d 319. They acted under the color of state law.

7. Sharon M. Boniaby - CO V is an Officer on the Pack 1 Unit. I filed (2) two grievances on this Officer. They were basically the same thing so I am going to go with grievance # 2016198216. On this grievance I got a case for disobeying an order to be dressed in the dayroom. Now I just came back from a Safety Meeting in the laundry where the Laundry Manager just told us it was 108° in the hallway. I went back to my Dorm which is 7 Dorm. It is 3:40 P.M. on 8-10-16 when I took off my shirt and went up to the

water cooler by the front door. It had to be at least 115° degrees in the middle of the dorm. We don't have any ehaust fans because they blue off. Now they are sealed shut. I was already sweating real bad and that's not good for a diabetic. So when I got to the door Officer Sharon M. Boniaby came up to the bars and said, "I'm not going to fuck with any of you, so give me your ID's." So I gave her my ID. She wouldn't even let me go to a cool down area. I guess they want you to have a heat stroke before you can get to a cool down area. So she finally got off at 6:00 P.M. and I still haven't received my I.D. back from Officer Boniaby. They called chow at 5:30 PM. and they wouldn't let me out for chow because I didn't have an ID. I told Officer NJORGE I was a diabetic and I need to get my insulin shot. He told me I didn't have an ID so he wasn't going to let me out. Officer NJORGE knew that Officer Boniaby had my ID. Now it's 6:00 PM. and Officer Boniaby left with my I.D. Later the next morning an Officer named Belo gave me my ID back at 2:00 AM. Now here are some Exerpt from PD-22, General Rules of Conduct and Disciplinary Guidelines for Employees that she violated. No 5. Reckless Endangerment - 5b. Reckless Endangerment: Endangerment Less than Life Endangerment - Violation Level 2. No. 8 - Failure to Follow Proper Safety Procedures - Violation Level 4. No. 10 - Falsification of Records - Violation Level 2. No. 14 - Use of Profane/Abusive Language. Violation Level 2. No. 23 - Mistreatment of Offenders. Violation Level 2. I have a witness by the name of James Chopel #2056533 who lived in 39 bunk right by the door and heard and saw every thing Officer Boniaby did. First off I was sweating really bad where this is bad for a diabetic.

Officer Boniaby failed to follow proper safety procedures. She knew it was extremely hot because they give the tempeture reading on their radio. She saw me sweating real bad so she should have taken me to a cool down area. But she didn't, instead she wrote me a case for disobeying a direct order by not being fully dressed in the dayroom. Now she lied about that because she never said anything to me except I'm not going to fuck with any of you, so give me your ID. She also used vulgar language. She also falsified records by saying I disobeyed a direct order because she never gave one. Then she endangered my life by taking my ID card and not allowing me to get my insulin or eat. That is also Mistreatment of Offender. Since Officer Boniaby knew that it was excessively hot it did constitute an 8th Amendment violation. See Rhem v Malcolm, 371 F. Supp. 594, 627 (S.D.N.Y. 1974) (holding excessive heat states an 8th Amendment claim) (2) Farmer v. Brennan, 511 U.S. 825 (1994). (3) Keenan v Hall, 83 F. 3d 1083, 1090 (9th Cir. 1996). (4) Id. (5) Dixon v Godinez, 114 F3d 640, 645 (7th Cir. 1997). (6) Hutching v Corum, 501 F. Supp. 1276, 1293 (W.D. Mo. 1989); see also French v. Owens, 777 F 2d 1250, 1252 (7th Cir 1985). Since May 26, 2016 until this date 11-8-16 the exhaust fans on 7 Dorm have been closed up tight where no ventilation can escape. It has been "excessively hot" since then and all summer long in this Texas heat. "Personal involvement" such as will support liability under §1983, means direct participation, failure to remedy wrong after learning of it, creation of policy or custom under which unconstitutional practices occurred, or gross negligence. Black v Coughlin, C.A. 2 (N.Y.) 1996, 76 F. 3d 72, on remand 15 F Supp. 2d 311. Defendant may be personally involved in constitutional deprivation within meaning of 42 U.S.C.A. § 1983 in several ways: defendant may have directly particaped in infraction; William v. Smith, C.A. 2 (N.Y.) 1986, 781 F2d 319. The Universal Declaration of Human Rights. - Article 5. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. Article 30. Nothing in this Declaration may be interpreted as implying for any State, group or person any right in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein. Prison official's personal involvement in alleged deprivations of prisoner's Constitutional rights, as prerequisite to award monetary damages in § 1983 action, may occur in one of the following ways: (1) Direct participation in infraction; (2) Creation by supervisory official of policy or custom under which unconstitutional practices occurred, or allowance of such policy or custom to continue; (3) Gross negligence or deliberate indifference to constitutional rights of prisoners by failing to act on information, indicating that unconstitutional practices are taking place. Roucchio v Coughlin, E.D.N.Y. 1996, 923 F. Supp. 360.

8. Clarence Houston is a Lieutenant of Officers on the Pack I Unit. On case # 20160373907, Lt. Clarence Houston is the Officer who presided over the case. This Officer wouldn't let me call a witness. He said you can't call any witnesses. Your guilty and he gave me the maximum punishment - 30 days commissary restriction, and 30 day recreation restriction. What is the use of even showing up for court if your going to be guilty anyway and also get the maximum punishment. Lieutenant Clarence Houston violated my

constitutional right to Due Process of Law by not allowing me to call my witness which was James Chopel #2056533. Amendment XIV. - Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction there of, are citizens of the United States and of the State wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizen's of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law'; nor deny to any person within its jurisdiction the equal protection of the laws. U.S.C.A. 42 § 1983. Since a § 1983 cause of action is against a person, in order to recover damages under § 1983, a plaintiff must establish that a defendant was personally responsible for the deprivation of a constitutional right. Johnson v. Snyder, C.A. 7(Ill) 2006, 444 F 3d 579. Civil Rights. Lieutanant Clarence Houston did deprive me of my Constitutional Right to Due Process of Law on 8-13-16. Personal involvement in discriminatory conduct, for purposes of determining whether public official can be held liable under § 1983, can be shown through allegations of actual knowledge and acquiescence. Coleman v. Kaye, C.A. 3 (N.J.) 1996, 87 F. 3d. 1491, certiorari denied 117 S Ct. 754, 519 U.S. 1084, 136 L. Ed. 2d. 691.

9. Joseph N. NJORGE is an Officer on the Pack 1 Unit. In the grievance # 2016198216, I stated that Officer NJORGE refused to let me out of the door because I had no ID. He also refused to let me out of the dorm so I could get my insulin and go eat chow at 5:30 P.M. on 8-10-16. He was also working on the door and had the keys to open 7 dorm gate at 3:40 P.M. on 8-10-16. Officer NJORGE

has failed to follow Proper Safety Procedures. In PD 22-No. 8-Failure to follow proper safety procedures-Violation Level 4. An employee is required to observe and enforce current Agency policies and State and Federal laws relating to safety in the work place. No. 23-Mistreatment of Offenders: Mistreatment usually takes the form of physical abuse, but it may also include, but not be limited to, such actions as threats or unauthorized/illegal denial of privileges or entitlements. Now Officer NJORGE could have let me out of the dorm to go to a cool down area since it was 108° in the hallway but more probably 115° in the dorm. Since he heard the tempeture on his radio and knew I was sweating real bad but he wouldn't let me out because I didn't have an ID. Now on May 26, 2016 a storm hit our Unit and knocked the exhaust fans off the roof. Now that "inadequate ventilation and air flow violates the Eithth Amendment if it undermines the health of the inmates and the sanitation of the penitentary." However, an "entirely inadequate" ventilation system did constitute an 8th Amendment violation. See Rhem v. Malcolm, 371 F. Supp. 594, 627 (S.D. N.Y. 1974) (holding excessive heat states an 8th Amendment claim). (2) Farmer v. Brennan, 511 U.S. 825 (1994). (3) Keenan v. Hall, 83 F. 3d 1083, 1090 (9th Cir. 1996). (4) Id. (5) Dixon v Godinez, 114 F 3d 640, 645 (7th Cir 1997). (6) Hutching v. Corum, 501 Supp. 1276, 1993 (W.D. Mo 1989); see also French v Owens, 777 F. 2d. 1250, 1252 (7th Cir 1985). Since May 26, 2016 until this date, 11-8-16 the exhaust fans on 7 dorm have been closed up tight where no ventilation can escape. It has been "excessively hot" since then and all summer long in this Texas heat. Officer Joseph N. NJORGE also refused to let me go eat or get my insulin at 5:30 P.M on 8-10-16. I mentioned this in both grievance # 2016198216 and # 2016194129. "Personal Involvement", such as will support liability under § 1983, means direct participation, failure to remedy alleged wrong after learning of it, creation of policy or custom under which uncon-stitutional practices occurred, or gross negligence in managing subordinates. Black v. Coughlin, C.A. 2(N.Y) 1996, 76 F 3d 72, on remand 15 F. Supp. 2d 311. Defendant may be personally involved in constitutional deprivation within meaning of 42 U.S.C.A. § 1983 in ways in which defendant participated directly in infraction; Supervisory official, after learning of violation through report or appeal, may have failed to remedy the wrong; He is also wrong when the policies or customs under which unconstitutional practices occurred or allowed such policy or custom to continue. William v. Smith, C.A. 2(N.Y) 1986, 781 F2d 319. The Universal Declaration of Human Rights. Article 5. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. Article 30. Nothing in this Declaration may be interpreted as implying for any State, group or person any right in any activity or to perform any act aimed at the destruction of any rights and freedoms set forth herein. Amendment XIV. Section 1. All persons born or natural-ized in the United States, and subject to the jurisdiction there of, are citizens of the United States and the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within

within its jurisdiction the equal protection of the laws.

10. Defendant M. Blalock is a grievance investigator at the Walls Unit. He or she investigated the Step 2 on grievance #2016198216. The response was, "A review of Disciplinary Case #20160373907 has been conducted. The hearing records support the guilty finding. The punishment was within established guidelines and no due process errors identified. Your allegations of your life being in danger due to not receiving your insulin, was reviewed. Information provided by the Office of Professional Standards reveals, that your life was not put into jeopardy for missing you PM dose 8-10-16. No further action is warranted by this office." I'm going to start off by saying the 14th Amendment allows me due process of law. Lt. Clarence Houston wouldn't let me call witnesses to court so he violated my due process law. Also I clearly stated it was 108° in 7 Dorm. Also Officer Sharon M. Boniaby and Officer Joseph N. NJORGE wouldn't let me go to a cool down area. Also Officer Sharon M. Boniaby kept my ID. so at 5:30 PM, on 8-10-16 I wasn't allowed to get my insulin because Officer Joseph N. NJORGE wouldn't let me out the gate. I wonder why she didn't mention any of that, or he. So I'm going to explain why. I explained that it was 108° in 7 dorm at 3:40 PM on 8-10-16. On May 26, 2016 a storm hit our unit and knocked the exhaust fans off the roof. Now that "inadequate ventilation and air flow violates the Eighth Amendment if it undermines the health of the inmates and the sanitation of the penitentiary." However, an "entirely inadequate" ventilation system did constitute an 8th Amendment violation. See Rhem v Malcolm, 371 F. Supp. 594, 627 (S.D.N.Y. 1974) (holding excessive heat states

an eighth amendment claim).(2) Farmer v. Brennan, 511 U.S. 825 (1994).(3) Keenan v Hall, 83 F.3d 1083, 1090 (9th Cir. 1996).(4) Id. (5) Dixon v. Godinez, 114 F 3d 640, 645 (7th Cir. 1997).(6) Hutching v. Corum, 501 F. Supp. 1276, 1293 (W.D. Mo. 1989); see also French v. Owens, 777 F.2d. 1250, 1252 (7th Cir. 1985). "Personal involvement," such as will support liability under § 1983, means direct participation, failure to remedy alleged wrong after learning of it, creation of policy or custom under which unconstitutional practices occurred, or gross negligence in managing subordinates. Black v. Coughlin, C.A. 2(N.Y.) 1996, 76 F. 3d 72, on remand 15 F. Supp. 2d 311. Defendant may be personally involved in constitutional deprivation with meaning of 42 U.S.C.A. § 1983 in several ways; Defendant may have directly participated in infraction; supervisory official, after learning of violation through report or appeal, may have failed to remedy the wrong; supervisory official may be liable because he created policy or custom under which unconstitutional practices occurred or allowed such policy or custom to continue; and supervisory official may be personally liable if he or she was grossly negligent in managing subordinates who caused unlawful conditions or event. William v. Smith, C.A. 2(N.Y.) 1986, 781 F2d 319.

The Universal Declaration of Human Rights - Article 5. - No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. Article 7. - All are equal before the law and are entitled without discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination. Article 30. - Nothing in this Declaration may be interpreted as implying for any act aimed at the destruction of any of the rights and freedoms set forth herein. Amendment XIV - Section 1. - All persons born or naturalized in the United States, and subject to the jurisdiction there of, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws. Now here are some Exerpt from PD-22, General Rules of Conduct and disciplinary action guidelines for employees that he or she forgot to mention on grievance #2016198216 that was violated by these employee's. No. 5b. Reckless Endangerment: Endangerment Less Than Life Endangerment-Violation Level 2: No. 8 - Failure to follow proper safety procedures: Violation Level 4, No. 10 - Falsification of Records - Violation Level 2. No. 14 - Use of Profane/Abusive language - Violation Level 2. No. 23 - Mistreatment of Offenders - Violation Level 2. Also Amendment 14. Denying me due process on case #20160373907, Both Officer NJORGE and Boniaby denied me access to get my insulin also eating chow. And since they both heard it was 108° in the hallway they should have let me go to a cool down area. And they also knew the exhaust fan was gone. Since I am a diabetic and sweating real bad they should have done something besides putting my life in danger besides cussing me a falsifying a fake disciplinary report because my witness, James Chopel would have been enough to prove Officer Sharon M. Boniaby lied.

11. Defendant J. Lopez, ARD is a grievance investigator at the Walls Unit in Huntsville, Texas. He investigated grievance # 2016194129. The response was, "Your grievance has been reviewed and noted. There is no evidence to support your allegations of any staff misconduct. This issue was appropriately addressed at the Step 1 level. Please refrain from submitting grievances on issues that are or have been previously addressed. No violations noted. No further action warranted by this office." Every person mentioned as Defendants are protecting each other. They are only getting themselves in worse trouble. I'm going to start by saying the 14th Amendment allows me due process of law. Also clearly stated it was 108° in 7 Dorm. Also Officer Sharon M. Boniaby and Officer Joseph N. NJORGE wouldn't let me go to a cool down area. Lt. Clarence Houston wouldn't let me call witnesses to court so he violated my due process law. Also Sharon M. Boniaby kept my ID. so at 5:30 PM on 8-10-16 I wasn't allowed to get my insulin shot or eat because Officer Joseph N. NJORGE wouldn't let me out of the gate because I didn't have an ID. I wonder why he or she didn't mention any of that on the response. So I'm going to explain why. I explained that it was 108° in 7 dorm at 3:40 PM. on 8-10-16. On May 26, 2016 a storm hit our Unit and knocked the exhaust fans off the roof. They were closed up tight after that. Now that "inadequate ventilation and air flow violates the 8th Amendment if it undermines the health of the inmates and the sanitation of the penitentiary." However, an "entirely inadequate" ventilation system did constitute an 8th Amendment violation. See Rhem v. Malcolm, 371 F. Supp. 594, 627 (S.D.N.Y. 1974) (holding excessive heat states an 8th Amendment claim). (2) Farmer v Brennan, 511 U.S. 825 (1994). (3) Keenan v Hall, 83 F. 3d 1083, 1090 (9th Cir. 1996) (4) ID. (5) Dixon v. Godinez, 114

F 3d 640, 645 (7th Cir. 1997). (6) Hutching v. Corum, 501 F. Supp. 1276, 1293 (WD Mo. 1989); see also French v. Owens, 777 F. 2d. 1250, 1252 (7th Cir 1985). "Personal involvement", such as will support liability under § 1983, means direct participation, failure to remedy alleged wrong after learning of it, creation of policy or custom under which unconstitutional practices occurred, or gross negligence in managing subordinates. Black v. Coughlin, C.A. 2 (N.Y.) 1996, 76 F3d 72, on remand 15 F. Supp. 2d 311. Defendant may be personally involved in constitutional deprivation with meaning of 42 U.S.C.A. § 1983 in several ways; Defendant may have directly participated in infraction; supervisory official, after learning of violation through report or appeal, may have failed to remedy the wrong; supervisory official may be liable because he created policy or custom under which unconstitutional practices occurred or allowed such policy or custom to continue; and supervisory official may be personally liable if he or she was grossly negligent in managing subordinates who caused unlawful conditions or event. William v. Smith, C.A. 2(NY.) 1986, 781 F2d. 319. The Universal Declaration of Human Rights - Article 5 - No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. Article 7 - All are equal before the law and are entitled without discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination. Article 30 - Nothing in this Declaration may be interpreted as implying for any act aimed at the destruction of any of the rights and freedoms set forth herein.

Amendment XIV - Section 1. - All persons born or naturalized in the United States and subject to the jurisdiction there of, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws. Now here are some Exerpt from PD-22, General Rules of Conduct and Disciplinary action guide lines for employees that he or she forgot to mention on grievance #2016194129, that was violated by these employees. No 5b - Reckless Endangerment; Endangerment Less than Life Endangerment - Violation Level 2. No. 8 - Failure to follow proper safety procedures; Violation Level 4. No. 14 - Use of Profane/Abusive language - Violation Level 2. No 23 - Mistreatment of Offenders - Violation Level 2. Also Amendment 14. Both Officers NJORGE and Officer Boniaby denied me access to get my insulin also eating chow. And since they both heard on their radio's that it was 108°, they should have let me go to a cool down area. And they also knew the exhaust fan was gone. Since I am a diabetic and sweating real bad they should have done something besides putting my life in danger besides cussing me. They both acted under the color of state law.

IV Facts

On 8-10-16 at 3:40 PM. I just got back from a Safety Meeting in the Laundry. The Laundry Manager told us it was 108° in the hallway. It was extremely hot when I got back to 7 Dorm. It was really hot so I took off my shirt because we don't have an exhaust fan in the ceiling any more because on May 26, 2016 a storm blue the exhaust fan off the roof. Now they are sealed shut. In my cubicle area right above the exhaust fan in bunk 15 it is about 115°. The exhaust fan has been closed up all summer long. That has been over 6 months being closed. However, an "entirely inadequate" ventilation system did constitute an 8th Amendment violation. See Rhem v. Malcolm, 371 F. Supp. 594, 627 (S.D. N.Y.) 1974)(holding excessive heat states an 8th Amendment claim). (2) Farmer v. Brennan, 511 U.S. 825 (1994). (3) Keenan v. Hall, 83 F 3d. 1083, 1090 (9th Cir. 1996). (4) Id (5) Dixon v Godinez, 114 F 3d 640, 645 (7th Cir. 1997). (6) Hutching v. Corum, 501 F. Supp. 1276, 1293 (W.D. Mo. 1989); see also French v. Owens, 777 F 2d 1250, 1252 (7th Cir 1985). Since May 16, 2016 until this date 11-8-16 the exhaust fans on 7 Dorm have been closed up tight where no ventilation can escape. It has been "excessively hot" since then and all summer long in this Texas heat. Now ~~William Stevens~~ Lorrie Davis, Robert D. Herrera, and Donald J. Bilnoski means "Personal involvement" such as will support liability under § 1983, which means direct participation, failure to remedy alleged wrong after learning of it, creation of policy or custom under which no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment by the Bill of Rights. Article 7. Or the gross negligence in managing subordinates. Black v Coughlin, C.A. 2 (N.Y.) 1996, 76 F 3d 72, on remand 15 F. Supp. 2d 311. Defendants may be personally involved in constitutional deprivation within meaning of 42 U.S.C.A. § 1983 in several ways; defendants may have directly participated in infraction; supervisory official after learning of violation through report or appeal, may have failed to remedy the wrong; supervisory official may be liable because he created policy or custom under which unconstitutional practices occurred, or gross negligence in managing subordinates. Black v Coughlin, C.A. 2(NY) 1996, 76 F. 3d 72, on remand 15 F. Supp. 2d 311. Defendant may be personally involved in constitutional deprivation within meaning of 42 U.S.C.A. § 1983 in several ways; defendant may have directly participated in infraction; supervisory official, after learning of violation through report or appeal, may have failed to remedy the wrong; supervisory official may be liable because he created policy or custom under which unconstitutional practices occurred or allowed such policy or custom to continue; and supervisory official may be personally liable if he or she was grossly negligent in managing subordinates who caused unlawful conditions or event. William v Smith, C.A. (NY) 1986, 781 F2d 319. The Declaration of Human Rights - Article 5. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

After I took off my shirt I went to the water cooler to get a glass of water and Officer Sharon M. Boniaby came to the bars and said, "I'm not going to fuck with any of you so give me your ID" That is all she said to me till the time she got off work at 6:00 PM. Also she kept my ID. after she got off work. Now its 5:30 PM and Officer Joseph N. NJORGE refused to let me go and get my insulin or go eat. I have a witness to all of this by the name of James Chopel. Now it is 108° in the hallway and alot hotter inside the wing so these two Officers disobeyed some of the Exerpt from PD-22-General Rules of Conduct and Disciplinary Actions Guidelines for Employees. 5b. Reckless Endangerment; Endangerment Less than Life Endangerment - Violation Level 2: Committing or threatening to commit any act that endangers the safety of another individual to a lesser degree than endangerment of life (includes committing hazing or horseplay when the safety of another individual is endangered); an action that results in the security of the Agency being jeopardised. No. 8 Failure to Follow Proper Safety Procedures - Violation Level 4: An employee is required to observe and enforce agency policies and state and federal laws relating to safety in the workplace. No. 10 - Falsification of Records - Violation Level 2 (Does not include falsification relating to the State of Texas Application For Employment): An employee is required by the Agency to maintain and submit truthful, accurate, and complete records as required by the Agency. Falsification of records includes altering documents to reflect false information or the ommission of material information. By signing or submitting a document, an employee attests to the truthfulness, accuracy and completeness of the information presented in the document. No 14 - Use of Profane/Abusive Language - Violation Level 2 - The use of profanity or abusive language/gestures or any use of slurs and hostile epithets are prohibited. No 23. - Mistreatment of Offenders - Violation Level 2: Mistreatment usually takes the form of physical abuse, but it may also include, but not limited to, such actions as threats or unauthorized/illegal denial of privileges or entitlements. The Bill of Rights - Article 5. - No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. It was 108° degrees in our 7 dorm. I am a diabetic and I was sweating real bad. Both Officers should have noticed this but they were to occupied with writing me a case for not having a shirt on, but the officer never said any thing to me except took my ID. She stated on the case I disobeyed a direct order by not getting fully dressed. She lied.

Also since it was 108° on 8-10-16 at 3:40 PM, without any exhaust fans both Officer Boniaby and NJORGE disregard the safety rules by not allowing me to go to a cool down area and both Officers disregarded Article 5 of the Bill of Rights by keeping me in the wing. Also the mistreatment of offenders by not allowing me to get my insulin or eat and that endangered my life. Both Sharon M. Boniaby and Joseph N. NJORGE were operating under the color of State law.

Lieutenant Clarence Houston ran a case on me, case #20160373907 for which Officer Boniaby stated, was ordered by Officer S. Boniaby to be dressed in the dayroom and said offender failed to obey the order. On the 14th Amendment it states, No State shall make or enforce any law which shall abridge the privileges or immunities of citizen's of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws. Lt. Clarence Houston was operating under color of state law by not allowing me to call a witness. I had a witness statement from James Chopel #2056533. He just said I was guilty and gave me the maximum of 30 days commissary restriction and 30 day recreation.

Defendant M. Blalock didn't investigate grievance #20160373907 and J Lopez didn't investigate grievance #2016194129. They were almost the same grievance. Neither one mentioned the cruel and unusual punishment concerning the inadequate ventilation system on 8-10-16 at 3;40 P.M. They didn't mention anything about my due process that was violated. They just went with the report from Robert D. Herrera and Donald J. Bilnoski. They were both working under the Color of State law.

IV Exhaustion of Legal Remedies

Plaintiff, Anthony Ortiz used the prisoner grievance procedure at the Pack I Unit to try and solve the problem. On 8-18-16 I filed a grievance #2016198216, plaintiff Anthony Ortiz presented the facts relating to this complaint. On Sept 1, 2016 I received the Step I back and on Sept. 25, 2016 I received the Step 2 back. I was sent a response saying the grievance was denied. On grievance #2016194129, I filed it on 8-10-16. On the Step I I received it back on 9-19-16 and was denied. The Step 2 was also denied on 10-28-16.

V. Legal Claims

The State of Texas violated plaintiff Anthony Ortiz's rights and constituted (the constitutional right at issue, is cruel and unusual punishment and a due process violation under the Constitutional Amendment at issue which is the 8th and 14th Amendment to the United States Constitution. Also Article 5, Article 7 and Article 30.

The plaintiff has no plain, adequate or complete remedy at law to redress the wrongs described herein. Plaintiff has been and will continue to be irreparably injured by the conduct of the defendants unless this court grants the declaratory and injunctive relief which plaintiff seeks.

VI Prayer For Relief

Wherefore, plaintiff Anthony Ortiz respectfully prays that this court enter judgement granting plaintiff.

A declaration that the acts and ommissions described herein violated plaintiff's rights under the Constitution and the laws of the United States.

A preliminary and permanent injunction ordering defendants Lorrie Davis, Robert D. Herrera, Donald J. Bilnoski, Clarence Houston, Sharon M. Boniaby, Joseph N. NJORGE, M. Blalock and J. Lopez to stop writing cases which are immaterial and quit violating due process and maybe air conditioning this Unit.

Also Compensatory damages for $1.00 against each defendant.

Also Punitive damages in the amount of $20.000 against each defendant.

Lorrie Davis $20.000

Robert D. Herrera $20.000

Donald J. Bilnoski $20,000

Clarence Houston $20,000

Sharon M. Boniaby $20,000

Joseph N. NJORGE $20,000

M. Blalock $20,000

J. Lopez $20,000

A jury trial on all issues triable by jury.

Plaintiff's cost in this Court

And any different additional relief this court deems just, proper and equitable.

Dated:

Respectfully submitted

Anthony Ortiz #753367 Pack I Unit-2400 Wallace Pack Rd. Navasota, Texas-77868

Verification

I have read the foregoing complaint and hereby verify that the matters alleged therein are true. I certify under penalty of perjury that the foregoing is true and correct.

Executed at Navasota, Texas on 11-29-16

Anthony Ortiz # 753367

Anthony Ortiz # 753367
Pack I Unit
2400 Wallace Pack Rd.
Navasota, Texas - 77868

Exhibit A

At 3:40 PM on 8-10-16, Officer Sharon M. Boniaby came to the bars in 7 Dorm and said to Anthony Ortiz, "I'm not going to fuck with any of you, so give me your ID. That was the last thing she said to him for the rest of the day after he gave her his ID. I'm an inmate in 39 bunk, the closest to the door and I hear everything. At 5:30 PM. they called chow. Officer NJORGE, Joseph N. was working the door with Boniaby right beside him. Officer NJORGE wouldn't let inmate Ortiz go eat because he didn't have an ID. So inmate Ortiz told Officer NJORGE he had to get his insulin. Officer NJORGE refused to let him go. At 6:00 PM the chowhall was closed and Officer Boniaby kept his ID when she went home.

James M. Chopel
Witness

James Chopel # 2056533
10-25-16

I certify under penalty of perjury that the foregoing is true and correct.

Executed at Navasota, Texas - Pack 1 Unit 2400 Wallace Pack Rd on 10-25-16.

TDCJ DISCIPLINARY REPORT AND HEARING RECORD

CASE: 20160373907 TDCJNO:00753367 NAME: ORTIZ,ANTHONY EA: 7.9
UNIT:P1 HSNG: B 7 015 JOB: FOLDER LAUNDRY IQ: 111
CLSS: S4 CUST: G2 PRIMARY LANGUAGE: ENGLISH LMHA RESTRICTIONS: NONE
GRDE: MI / SP OFF.DATE: 08/10/16 03:55 PM LOCATION: P1 B7 DORM
TYPE: ID

OFFENSE DESCRIPTION

ON THE DATE AND TIME LISTED ABOVE, AND AT P1 7 DORM DAYROOM, OFFENDER: ORTIZ, ANTHONY, TDCJ-ID NO. 00753367, WAS ORDERED BY OFFICER S. BONIABY TO BE DRESSED IN THE DAYROOM AND SAID OFFENDER FAILED TO OBEY THE ORDER.

CHARGING OFFICER: BONIABY, S. SHIFT/CARD: 1 1

OFFENDER NOTIFICATION

TIME/DATE NOTIFIED: 08:00 8-13-16 BY:(PRINT) R Doyle IF APPLICABLE INTERPRETER.
YOU WILL APPEAR BEFORE HEARING OFFICER 24 HOURS OR MORE AFTER RECEIPT OF THIS NOTICE. YOU HAVE THE RIGHT TO SUBMIT A WRITTEN STATEMENT AND MAKE A VERBAL STATEMENT. DO YOU WANT TO ATTEND THE HEARING? YES NO IF NO, HOW DO YOU PLEAD? GUILTY NOT GUILTY
OFFENDER NOTIFICATION SIGNATURE: X Anthony Ortiz 753367 DATE: X 8-13-16
BY SIGNING BELOW, YOU GIVE UP YOUR RIGHT TO 24-HOUR NOTICE AND AUTHORIZE THE HEARING OFFICER TO PROCEED WITH THE HEARING.
OFFENDER WAIVER SIGNATURE: ______ DATE: ______

HEARING INFORMATION

HEARING DATE: 8-14-16 TIME: 1420 INTERPRETER SIGNATURE: ______
EXPLAIN BELOW IF HEARING WAS NOT HELD WITHIN SEVEN DAYS, EXCLUDING WEEKENDS AND HOLIDAYS, FROM THE OFFENSE DATE: ______

OFFENDER STATEMENT: OFFENDER CLAIMS HE WAS NEVER GIVEN AN ORDER

OFFENSE CODES: 24.0
OFFENDER PLEA: (G, NG, NONE) | NG | | | |
FINDINGS: (G, NG, DS) | G | | | |

PUNISHMENT

LOSS OF PRIV(DAYS) ______ REPRIMAND ______
*RECREATION(DAYS) 30 EXTRA DUTY(HOURS) ______
*COMMISSARY(DAYS) 20 CONT.VISIT SUSP THRU __/__/__
*PROPERTY(DAYS).. ______ CELL RESTR(DAYS) ______
*______(DAYS) ______

OFFENDER SIGNATURE FOR RECEIPT OF FINAL REPORT: X Anthony Ortiz
Chouston/Lieutenant 0-1-0
HEARING OFFICER (PRINT) WARDEN

(FORM I-47MI)CONTACT A STAFF MEMBER IF YOU DO NOT UNDERSTAND THIS FORM
(REV. 04-10) COMUNIQUESE CON UN MIEMBRO DEL PERSONAL SI NO ENTIENDE ESTA FORMA